

TMH/AC:gte 06/08/04 Declaration.doc

PATENT

Attorney Reference Number 4239-60680-01

Application Number 09/913,667



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application of: Liotta et al.

Application No. 09/913,667

Filed: January 22, 2002

Confirmation No. 5252

For: METHODS AND DEVICES FOR THE  
ISOLATION AND ANALYSIS OF  
CELLULAR PROTEIN CONTENT

Examiner: Robert A. Zeman

Art Unit: 1645

Attorney Reference No. 4239-60680-01

## CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney  
for Applicant(s)

Date Mailed

7/25/04

COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

**DECLARATION OF LANCE A. LIOTTA M.D., PH.D AND**  
**MICHAEL R. EMMERT-BUCK, M.D., PH.D. UNDER 37 C.F.R. §1.132**

We, LANCE A. LIOTTA, M.D., Ph.D. and MICHAEL R. EMMERT-BUCK, M.D.,

Ph.D. declare as follows:

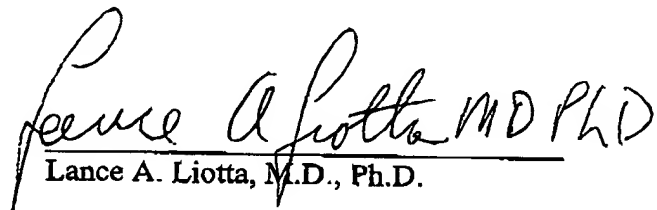
1. We are two of the co-inventors of, and have each read and understand, U.S. Patent Application No. 09/913,667 (hereinafter the '667 application) entitled METHODS AND DEVICES FOR THE ISOLATION AND ANALYSIS OF CELLULAR PROTEIN CONTENT.
2. We are two of the co-inventors of, and have each read and understand, U.S. Patent No. 6,252,516 entitled ISOLATION OF CELLULAR MATERIAL UNDER MICROSCOPIC VISUALIZATION (hereinafter Bonner *et al.*), which issued June 26, 2001.

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3. We understand that claims 1-28, 34-39, 44-51, and 53-83 are currently pending in U.S. Patent Application No. 09/913,667, and that these claims are rejected as allegedly being anticipated (under 35 U.S.C. §102(e)) by the teachings of Bonner *et al.*

4. We are the inventors of "a method of microdissection and analyzing proteins of interest" in a population of extracted cells that is disclosed, but not claimed, in Bonner *et al.* and claimed in the '667 application. To the extent that Bonner *et al.* discloses but does not claim "a method of microdissection and analyzing proteins of interest," that subject matter is our own work and not that "of another."

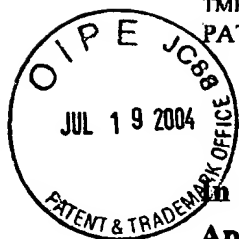
5. All statements made herein of our own knowledge are true and all statements made on information and belief are believed to be true; and further, these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statements made may jeopardize the validity of the application or any patent issuing thereon.

Date: June 7, 2004  
Lance A. Liotta, M.D., Ph.D.

Date: \_\_\_\_\_, 2004

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Michael R. Emmert-Buck, M.D., Ph.D.

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5. All statements made herein of our own knowledge are true and all statements made on information and belief are believed to be true; and further, these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statements made may jeopardize the validity of the application or any patent issuing thereon.

Date: \_\_\_\_\_, 2004

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Lance A. Liotta, M.D., Ph.D.Date: June 11, 2004  
\_\_\_\_\_  
Michael R. Emmert-Buck, M.D., Ph.D.